

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of Implementation of Section 621(a)(1)
of the Cable Communications Policy Act of 1984)
as amended by the Cable Television Consumer
Protection and Competition Act of 1992

MB Docket No. 05-311

COMMENTS OF THE CITY OF RENTON, WASHINGTON

The City of Renton believes local governments must be responsible to their citizens for careful management of the rights of way that belong to those citizens. At the same time, Renton's policies and actions clearly demonstrate that the City values its business partnerships and understands the advantages to the community of competition among multiple service providers.

Although Renton affirms its long-standing commitment to healthy competition and supportive business development practices, the City will resist any action by the Federal Communications Commission to diminish its direct authority to protect valuable public assets. Renton further advises that cities are much better positioned to address customer concerns about cable services in a specific locality. There would be nothing gained from moving customer service complaints from city hall to a distant federal agency.

We recognize that time and predictability are essential to business success. The City takes pride in its reputation as a jurisdiction that is responsive, timely and efficient in processing land use applications and construction permits. As evidence of its success in regulatory reform, Renton cites special recognition by the Washington State Competitiveness Council for the City's streamlined permit process.

Renton has worked hard to create both a general environment and municipal business plan goals that support business development, while prudently managing public assets and enhancing the quality of life in our community.

The City of Renton can and will maintain its local cable franchise authority with the highest standards of clarity, timeliness, and fairness. In order to assure its citizens appropriate choice, high quality and reasonable cost, Renton supports the entry of new video service providers, and welcomes market competition.

There are important facts for FCC Commissioners to know about the City of Renton and hundreds of other local jurisdictions like it across the United States. Here are some facts about Renton that bear on the question of cable franchise authority and management of the cable franchise relationship:

The City of Renton

Renton has 57,000 residents and 36,000 daytime workers. Voluntary annexations of unincorporated areas to the east and the west of the City are expected to double the City's resident population within 7-8 years.

The Cable Television Franchise

Comcast (and its predecessor companies) has held the City's only cable television franchise since 1977. The current franchise agreement has been in effect since 1993; it will expire in September 2008. Comcast has filed a notice of intent to renew the franchise. The renewal process is expected to begin within the next few months.

Franchise Fee

Under the current franchise, Comcast has access to all households, businesses and institutions within city limits. The franchise fee it pays to the City of Renton equals 5% of gross revenues.

Public, Educational, and Government Access

Comcast also provides Renton with three "PEG" access channels on the cable system. Two of those are now in operation: one for government access, and the other for public access. Under the agreement, Comcast will make available additional channels when use of the current PEG channels warrants.

The franchise agreement requires Comcast to provide, install and maintain equipment necessary for local government cable-casting; provide service to public buildings and schools in Renton without charge; and (in exchange for release of certain obligations) contribute funds to a non-profit foundation for construction, operation and maintenance of a public access studio shared by six adjoining cities all of which hold franchise agreements with Comcast.

Institutional Network (I-net)

The City of Renton operates an extensive metropolitan area network installed by Renton's initial cable franchisee, a predecessor of Comcast. The network is made up of 12-strand fiber runs from City Hall to:

- the city attorney's office
- four fire stations
- the municipal airport control tower
- the public works shops
- three community centers and a community use building in a downtown park
- a senior center
- two libraries
- the Renton Museum and Historical Society
- a downtown parking garage and a public transit "Park and Ride" facility
- the former city hall and 2 other buildings the city leases out.

The fiber network is critical to daily operation of the City and its public agency partners, and fundamental to the high quality of public service they provide.

Altogether these network links connect a total of thirty-two city facilities to Renton's main data center, the hub of all City government telecommunication services including voice (dial tone), data, some fire/intrusion alarms, public safety communications and dispatch. In addition, the network supports cashiering, back office business and data base services, and reservation, scheduling, financial and emergency management applications. The City's traffic management system (signal timing & adjustment) also operates on this same fiber network.

The City also uses the I-net fiber to backhaul a city-wide wireless network system including all fire and police vehicle data. This wireless network covers 80% of the land area within Renton's corporate boundaries.

While our franchise does not require the carriage of emergency alerts on the I-net, the fiber network carries all of the E-911 dispatch services for fire and police. In addition, firefighters and police officers have access across the I-net to both the fire and police records management systems, along with regional, state and federal emergency management and public safety data.

One of Renton's great concerns about the FCC's current telecommunication discussion is the dependence of our police and fire operations on this cable I-net. If local franchise authority is removed or diminished, Renton and other cities that have modernized their public safety communications in this way may lose access to the systems that enable them to function.

Customer Service

Renton's franchise agreement assures the quality of service described in Federal standards. These are good business practices that any cable service provider should endorse. Under the terms of the Renton franchise agreement:

- In no case can a franchisee's service standards fall below the standards established by the National Cable Television Association.
- If there is a service failure, the cable operator renders repairs promptly and with the shortest service interruption possible, to restore the quality of the signal to pre-failure conditions. Repair-related interruptions are preceded by notice, and occur during a period of minimum use of the cable system.
- The cable operator responds to any system outage affecting more than five subscribers.
- The operator maintains an adequate force of customer service representatives and incoming trunk lines, so that telephone inquiries are met promptly and responsibly. A summary of customer service measures is provided by the operator quarterly.
- An employee of the franchise operator answers and responds to all individual complaints no later than 5:00 p.m. weekdays, but may use an answering service after regular business hours.
- The cable operator has a technician on call 24/7 and maintains a sufficient repair force to respond to service requests within two working days. All complaints are resolved within seven days, to the extent reasonable.
- If a subscriber has notified the operator of an outage, there is no charge for service if the outage lasts more than 24 hours.
- When a new connection is made, and periodically at least once a year, the operator supplies the title, address, and telephone number of the City official who subscribers can call with questions or complaints.

Build Out

Another component of Renton's cable franchise agreement is especially important to our citizens – the requirement for cable service to be available to all. Only a few small areas in Renton have not been able to receive Comcast services because of extraordinary conditions.

The agreement specifies that service must be available city-wide within 12 months from granting of the franchise (i.e. by September 1994). Areas subsequently annexed to the City must be provided with cable availability within 12 months of annexation, subject to stipulated extraordinary installation conditions. (Note that Renton has accepted nearly sixty annexations of unincorporated King County territory since the initiation of the current franchise.)

Regarding low-density areas, our franchise agreement holds that cable service must be available to all Renton residents provided there are at least 35 dwelling units per street mile. If a potential new subscriber lives in a less dense area, the cable operator must enter into an agreement wherein the new subscriber reimburses the operator for the costs of making the connection. Whenever any subsequent subscriber (who did not contribute to the cost of the extension) connects to the extended line, that subscriber must pay his/her *pro rata* share directly to the cable operator. Then the operator passes that payment back to the original subscriber.

In order to ensure that our residents have access to current telecommunications technologies, Renton's franchise stipulates a schedule completion of upgrades (such as internet connection) within 48 months from the beginning of the franchise. Comcast now offers internet service to all City residents who have cable.

New Entrants into the Renton Market

Directly pertinent to the FCC's concerns about assuring a "level playing field" for new entrants into the local market, Renton's franchise contains an "Equalization of Civic Contributions" section. Under this provision:

- If one or more additional franchises are granted, the City may require that such subsequent franchisees pay an amount proportionally equal to franchising costs experienced by the initial franchisee. These costs may include but are not limited to access and institutional network costs, bi-directional or equivalent cable installed to municipal buildings, and similar expenses.
- On the anniversary of each later-awarded franchise, those franchisees must pay to the City an amount proportional to the amount contributed by the original franchisee, based on the number of subscribers held by the franchisees.
- Additional franchisees shall provide all PEG access channel(s) and emergency override systems currently available to the subscribers of the existing franchisee(s). In order to provide these access channels, new franchisees may interconnect, at their cost, with the existing franchisee(s), subject to reasonable terms and conditions imposed by the existing franchisee. These interconnection agreements shall be made directly between the franchisees. In case of dispute, the City Council may arbitrate.

Operation in the Public Rights of Way

The cable franchise grants the cable operator access to the public rights of way for the purpose of providing cable television service. As is the case with all ROW users, the cable provider must obtain a construction permit from the City, and must pay an approval / inspection fee. Upon application for each construction permit the franchisee must submit an "advance notification" plan for the proposed construction.

Insurance and Performance Bond

According to the franchise agreement the City of Renton holds with Comcast:

- Comcast maintains a general comprehensive liability insurance policy to protect the City and all persons against liability for personal injury, death and property damage, and errors or omissions related to the operations of the franchisee. The insurance policy provides minimum limits of \$1 million for both personal injury and/or property damage, and names the City as additional insured.
- The franchisee must promptly repair any damage to City property caused by a franchisee or any of its agents.
- The franchisee must comply with all present and future ordinances and regulations regarding excavation or construction and, if deemed necessary by the City, shall be required to post a performance bond in favor of the City warranting that all restoration work will be done promptly and in a workmanlike manner.

The Franchising Process and Enforcement Mechanisms

The City of Renton treats its cable franchise agreement as a contract between the City, acting on behalf of its citizens, and the cable television/internet connection provider.

Renton agrees with the Federal Cable Act that the statutory obligation of the local government is to determine the community's cable-related needs and interests, and ensure that these are addressed in the franchising process.

If any portion of our franchise is inconsistent or conflicts with any FCC rule or regulation or other Federal law, the FCC or Federal rule controls. Our franchise further states that matters involving technical standards, rates, franchise renewal, franchise fees, compensation for involuntary abandonment, and termination for non-compliance are subject to Federal and State law.

While a franchise is negotiated by the local government as a contract, the franchise process provides the cable operator additional due process rights. For instance, Renton's City Code (Section 5-19-9) requires the City to give public notice of the grounds for revocation of a

franchise. Also, the franchisee may elect a hearing before the City Council, who has authority to issue a sanction less severe than revocation, based on factors specified in the Code.

There are three sections of the Renton City Code that enable the City to enforce the terms of the cable franchise agreement:

- City Code Section 5-19-5N provides that no franchise shall be renewed until violations or defaults in the franchisee's performance have been corrected, or a plan of correction has been approved by the City.
- Code Section 5-19-4P, mirrors this language to describe the conditions warranting non-renewal of a telecommunications license.
- City Code Section 5-109-8U provides for revocation or termination of a franchise for certain violations.

Competitive Cable Systems

The City of Renton was approached once several years ago by a competitive cable television provider, but the provider chose not to enter into formal discussions. The City has not and will not deny any provider the opportunity to serve this community. There is already a procedure on our books allowing competitive providers to establish a franchise relationship with the City.

Conclusions

The local cable franchising process functions well in Renton, Washington. Renton has experience working with cable providers to both see that the needs of the local community are met, and ensure that the practical business needs of cable providers are taken into account.

Local cable franchising ensures that cable operators are allowed access to the public rights of way in a fair and even-handed manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way assure adequate protection of this valuable public asset. Our cable franchising process also ensures that our community's specific needs are met, and that the City of Renton is able to intervene on behalf of its citizens if need be.

Franchises provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create a new Federal bureaucracy to handle matters of specifically local interest.

Finally, local franchises allow each community, including Renton, a voice in implementation of local cable systems, and the features (such as PEG access and I-Nets) that will be available to meet local needs. These factors are equally present for new entrants as for existing providers.

The City of Renton, Washington therefore respectfully requests that the Commission refrain from interfering with local government franchising authority, or to otherwise impair the operation of the local franchising process as set forth under existing Federal law.

Respectfully submitted,

City of Renton, Washington

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